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August 11, 2009

Via ECF

Honorable George H. Lowe
United States Magistrate Judge
United States District Court
Northern District of New York
100 S. Clinton Street
Syracuse, New York 13261

Re: ***Yoder, et al.* v. *Town of Morristown, et al.*,**
Case No: 09-cv-00007

Your Honor:

Plaintiffs petition this court pursuant to Local Rule 83.12-6(f) that they be excused from in-person attendance at the ENE session scheduled for August 20, 2009. Attendance would work an extraordinary and unjustifiable hardship on the Plaintiffs, who have made alternative arrangements (described below) which will allow them to participate in the conference.

In-person attendance by each of the thirteen Plaintiffs would cause extraordinary or unjustifiable hardship, as stated in L.R. 83.12-6(f). As the Court is aware, all Plaintiffs are members of the Swartzentruber Old Order Amish religious group. As such, Plaintiffs do not travel by modern transportation, including planes and automobiles. *See* Cmplt. ¶¶ 40, 44. Plaintiffs travel long distances only by bus or train, and a bus or train trip from Morristown to Albany and back would be a multi-day undertaking. This travel is further complicated by the fact that Plaintiffs do not stay in modern hotels or motels, and would need to find Amish lodging nearby. Because no evaluators are located in Morristown, or within horse and buggy distance of Morristown, this conflict is inevitable in the ENE process. Multi-day travel for attendance at a two-hour ENE session would be an extraordinary hardship on the Plaintiffs, far greater than that imposed on any party who uses modern methods of transportation.

Plaintiffs wish to participate in the ENE process and have therefore made alternative arrangements for the ENE. The Bishops and Building Committee, who have decisionmaking authority for all the Plaintiffs, will be meeting together at one of their homes on August 20th. One of their attorneys will be present at that meeting and available by telephone to communicate with those attending the ENE. In this manner, the Plaintiffs can respond to questions and requests from the Evaluator, communicate their own questions, and evaluate and respond to any settlement proposals. Because Plaintiffs are able to make the alternative arrangements which will allow them to participate in the conference, it would be an unjustifiable hardship to require them to engage in multi-day travel in order to attend the ENE.

Should the Court require further information, Plaintiffs will be happy to provide further factual background and briefing on this subject.

Sincerely,

Lori Windham

Lori H. Windham
Counsel for Plaintiffs

cc: Gregg T. Johnson
Christopher R. Lemire
Jacinda Hall Conboy